

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte WAN S. KIM

Appeal No. 95-4553
Application No. 08/057,548¹

HEARD: 9 December 1998

Before URYNOWICZ, JERRY SMITH, and TORCZON, Administrative
Patent Judges.

TORCZON, Administrative Patent Judge.

DECISION ON APPEAL

Appellant seeks relief under 35 U.S.C. § 134 from the final rejection of claims 1-8, all of the pending claims. We reverse.

BACKGROUND

Appellant filed the application before us on 6 May 1993, claiming the benefit of Korean patent application 1992-7624, filed 6 May 1992. (Paper No. 3 (Decl.))

Appellant discloses a method and apparatus for locking a housing door on a recording or reproducing device after a predetermined period has elapsed without any key input. For

¹ Attorney docket no. Q32358.

instance, the door covering the cassette opening in a video cassette recorder (VCR) might be locked after thirty seconds if no key on a remote control is pressed, to prevent tampering by, for example, inquisitive children. The sole independent claim on appeal illustrates the claimed subject matter (Paper No. 6 (Amdt. A, filed 23 May 1994) at 1-2):

1. A method for locking a door of a housing of a recording/reproduction device, said method comprising the steps of:

judging whether an input key has been operated;
and

locking the door of the housing if said input key has not been operated for a predetermined elapsed time period, said locking step being conducted independently of the operating status of the recording/reproduction device.

The examiner rejected claims 1-4 under 35 U.S.C. § 102(b) as anticipated by

Sander

4,851,937

25 July 1989

Claims 5-8 have been rejected under 35 U.S.C. § 103 as having been obvious in view of Sander and the examiner's official notice of cassette recorder doors. (Paper No. 12 (Ex. Ans.) at 3-4.)

Sander discloses a secure communications recorder. Passwords entered through a keypad **32** are used to unlock the

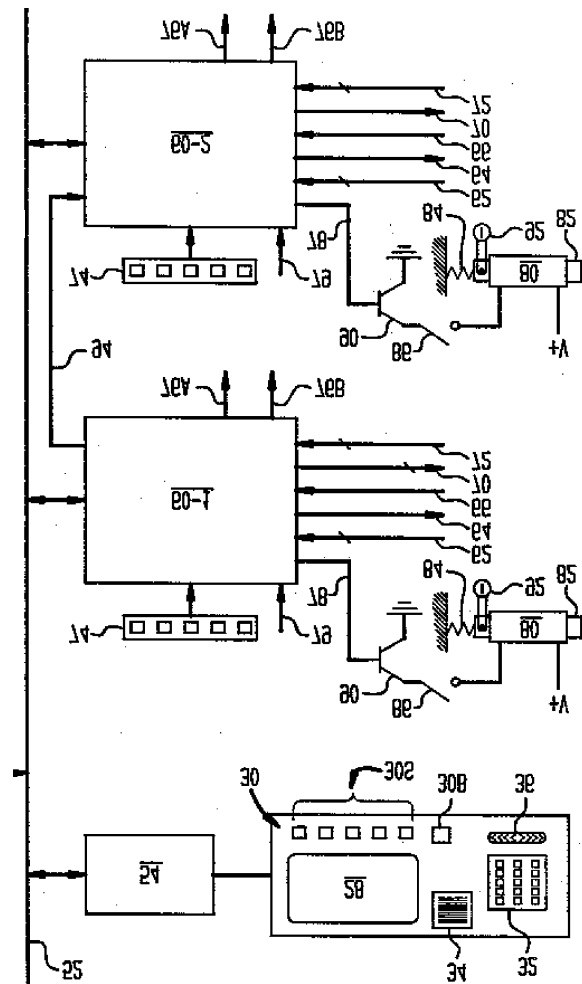
recorder housing. (8:30-33.) Sander describes the locking of the recorder housing as follows:

Because recorded communications may have critical value, for example as evidence, the bay containing each record deck is provided with an electromechanical lock which is controlled by a processor 60 over lines 78. Solenoid 80 will withdraw bolt 82 against the force of spring 84 when energized. Solenoid 80 is controlled by switch 86, preferably located in the bay door handle, and transistor 90, which in turn is controlled by line 78 so that when transistor 90 is energized and switch 86 is closed, bolt 82 is withdrawn. The open or

closed state of each bay is sensed over line 79 by processors 60.

The rules governing the bay lock logic are as follows:

1. If one deck is enabled for unlocking, all others are disabled and locked to prevent the cabinet from [toppling].
2. If no password is entered all decks are disabled and locked.
3. If a password level 1 is entered, then all record decks which are in READY or RECORD and do not have a guard tone failure must be disabled and locked.



From Sander's Figure 2

Other decks [may be] unlocked by a user with a level 1 password (a "tape changer") to allow full tape or tapes which have a guard tone failure to be changed.

4. Any record deck in RERECORD is locked for all password levels except level 4 (the service level). (RERECORD is a function wherein the contents of one channel of a selected tape are rerecorded onto an auxiliary recording device.)

5. If logger **10** is in use by a remote controller, all bays are disabled and locked.

A key operated mechanical linkage **92** is provided to mechanically override spring **84** and withdraw bolt **82** in the event of a system failure.

(6:50-7:13.)

DISCUSSION

Anticipation

To anticipate a claim, a prior art reference must, either expressly or inherently, disclose each and every limitation in the claim. Verdegaal Bros. v. Union Oil Co., 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). According to the examiner,

Sander teaches in column 6 step 2 (rules that govern the operation of the device) that if no password is entered all decks are disabled and locked. These passwords are entered through keys (column 8 lines 30-33). Therefor[e], if no keys have been pressed then the decks are disabled and locked. Since the decks are locked after it has been determined, i.e.[,] judged, that the keys have not been pressed then a delay[, i.e.[,] a predetermined period of time must be present. Clearly a time period must

elapse between when the device is turned on and when it is determined that no keys have been pressed.

(Paper No. 12 at 4-5, original emphasis.) The problem with the examiner's finding is that Sander's tape bays are ordinarily locked. (Abstract at 13-15; 6:50-59; 7:1-3; 8:51-53.)² Although Sander's rule 2, if read in isolation, might suggest that the bays are locked in response to a failure to type in a password, that interpretation is inconsistent with the teachings and purpose of Sander's invention. Sander wants a device that is secure. (2:2-5.) The lock must be "enabled" before the bolt of the lock is withdrawn. (6:50-59.) When rule 2 is read in context, the preponderance of evidence suggests that rule 2 means if no password is entered, the deck remains disabled and locked. Thus, the portion of the reference on which the examiner relies does not support his position.

We find nothing else in Sander to teach the locking step of claim 1. Sander does not explain how the decks are initially locked or subsequently relocked. Although we must assume that Sander inherently provides some method of locking

² Although Appellant argues that Sander (16:60-65) requires a key entry to lock the logger 10, this portion of the reference is not germane since it does not refer to the locking of the recorder housing.

and relocking, we have no basis in the reference to infer that this locking results from the passage of a predetermined period from a key input. Without that teaching or inference, we cannot agree that Sander teaches that limitation. See Rowe v. Dror, 112 F.3d 473, 480-481, 42 USPQ2d 1550, 1555 (Fed. Cir. 1997) (rejecting reliance on the negative pregnant to show anticipation).

We reverse the rejection of claim 1 as anticipated by Sander. The rejection of dependent claims 2-4 on the same ground is reversed as well.

Obviousness

"To establish a prima facie case of obviousness based on a combination of the content of various references, there must be some teaching, suggestion or motivation in the prior art to make the specific combination that was made by the applicant." In re Dance, ___ F.3d ___, ___, 48 USPQ2d 1635, 1637 (Fed. Cir. 1998) (original emphasis). Claims 5-8 differ from claims 1-4 in requiring that the recording/reproduction device be a VCR. The examiner took official notice of VCR doors. The official notice does not, however, compensate for the lack of a teaching or a suggestion to lock the bays after a predetermined period of inactivity. The preponderance of evidence does not support a finding that the cited prior art

(including the officially noticed prior art) teaches or suggests locking the door after passage of a predetermined period of activity. Consequently, we cannot affirm the rejection of claims 5-8 as having been obvious in view of Sander and officially noticed VCR doors.

DECISION

The rejections of claims 1-4 as anticipated and of claims 5-8 as having been obvious are

REVERSED

STANLEY M. URYNOWICZ, JR.)	
Administrative Patent Judge)	
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